

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



**Advisory Opinion No. 69**

This is in response to your letter of October 1, 1976, requesting this Commission for an advisory opinion relative to an excerpt contained in the Minutes of Oceanside Development, Inc. which is more fully explained hereinafter.

We understand the following to be the salient facts in this case:

1. An article in the Honolulu Star-Bulletin on September 7, 1976 headlined the fact that you, as a Councilman, had prior knowledge regarding the cost recovery proposal for Oceanside Properties, Inc. relative to the Kukui Plaza development.
2. That same newspaper article contained a quoted excerpt from the Minutes of Oceanside Development, Inc.
3. The attorney for Oceanside Properties was one of the principals in the article.
4. The former President of Oceanside Properties was another principal named in the article.
5. The date of entry of the Minutes and the date on which the so-called conversation was held referring to the Councilman indicate that you were one of the principals although not actually named in the minutes.
6. The final product which related to the excerpted Minutes of Oceanside Development, Inc. is the condominium conveyance document of January 14, 1976 executed between Oceanside Properties, Inc. and the City.
7. The contents of the condominium conveyance document were never mentioned to the Council nor was approval for execution of the condominium conveyance document obtained from the Council by Mayor Fasi.

Based on the foregoing facts, the provisions of Article X of the Revised Charter of Honolulu 1973 which may be applicable are:

1. Section 10-102.2, relating to disclosure of confidential information; and
2. Section 10-104, relating to fair and equal treatment of all persons.

The preliminary investigation conducted by this Commission has resulted in the following findings:

1. You, as a Councilman, have no recollection of ever discussing with the attorney the cost recovery proposal for the benefit of Oceanside Properties in connection with the Kukui Plaza development.
2. The attorney has no recollection of discussing the cost recovery proposal with you as a Councilman.
3. The developer stated that he did not have any conversation with you regarding the cost recovery proposal.
4. The law firm of the attorney was officially retained sometime in February of 1975 which is reflected in the corporate minutes, but the developer's first contact with the attorney was sometime in March of 1975.
5. In anticipation of questions regarding the cost recovery program, the developer met with the attorney prior to the March board of directors meeting of Oceanside Development, Inc.
6. At the meeting between the developer and the attorney, no discussion of the cost recovery proposal could have been made because it was not considered until December of 1975, after a series of meetings with the Corporation Counsel.
7. The entry in the Minutes of Oceanside Development, Inc. is a substantive statement rather than a verbatim statement by the developer. Moreover, the subject excerpt characterizes the cost recovery program as a "proposal."

Based on the foregoing findings, we conclude that:

1. You did not obtain confidential information nor used same for your personal gain; and
2. You would not have been in a position to render or seek special consideration or treatment in favor of Oceanside Properties, Inc. because you did not have any confidential information regarding the cost recovery proposal which was being sought by Oceanside Properties, Inc. from the City.

Hence, we are of the opinion that there were no violations of the applicable standards of conduct provisions contained in the Revised Charter of Honolulu 1973.

Dated: Honolulu, Hawai'i, February 15, 1977.

ETHICS COMMISSION  
Nathaniel Felzer, Chairman